

Meeting of 2009-12-15 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING  
DECEMBER 15, 2009 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   Frank Jensen, City Attorney  
   Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Councilmember Bill Shoemate, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
James Hanna, Ward Two  
Janice Drewry, Ward Three  
Jay Burk, Ward Four  
Robert Shanklin, Ward Five  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
   Doug Wells, Ward Eight

ABSENT:                      None.

Mayor Purcell recognized Mayor-Elect Fred Fitch who was in attendance.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF DECEMBER 1, 2009.

MOVED by Drewry, SECOND by Hanna, to approve the minutes of Lawton City Council for December 1, 2009. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Wells requested item #12 be considered separately.

MOVED by Drewry, SECOND by Shoemate, to approve the Consent Agenda with the exception of item #12. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: William Drewry, dba Wichita Holding Corporation in the amount of \$15,180.89 (**Res. 09-127**) and Ralph Conerly in the amount of \$80.00. Exhibits: Legal Opinion/Recommendation and Resolution No. \_\_\_\_.

2. Consider the following damage claims recommended for denial: Southwestern Bell Telephone, dba AT&T Oklahoma in the amount of \$862.17 and Kyong Cha and Stanley Holewa in the amount of \$614.31. Exhibits: Legal Opinions/Recommendations.

3. Consider approving an Agreement with the Board of Education of Independent School District No. 8 of Comanche County, Oklahoma, for the funding of school building construction and renovation/remodeling and the purchase of school buses, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement and Ordinance No. 09-22.

4. Consider approving a grant application for an \$8,000.00 grant from the SARKEYS Foundation for the Retired & Senior Volunteer Program (RSVP) for Fiscal Year 2009 2010 funding. Exhibits: None.

5. Consider adopting a Resolution authorizing the installation of traffic control measures on: SE Elmhurst Lane at the intersection of SE 38<sup>th</sup> Street; SW A Avenue between SW 6<sup>th</sup> Street and SW 7<sup>th</sup> Street; NW Arlington Avenue between the intersections of NW 17<sup>th</sup> Street and NW 18<sup>th</sup> Street; SW 9<sup>th</sup> Street, SW A Avenue and SW B Avenue. Exhibits: Traffic Commission Minutes, Traffic Issue Requests, and **Resolution No. 09-128**.

6. Consider accepting the Landfill Cells 4-5 Project #2008-4 as constructed by M. Hanna Construction Co., Inc. and placing the Maintenance Bond into effect. Exhibits: None.

7. Consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, pertaining to Chapter 6, Buildings, Construction & Housing, establishing the statutory surcharge requirement per building permit issued and per building permit renewed and establishing an administrative fee per 59 O.S. 1000.25.

Exhibits: **Resolution No. 09-129**.

8. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 460 linear feet of 12-inch PVC water line and all appurtenances to serve the Lawton Country Club located at 4601 West Gore Boulevard in the SE/4 of the SW/4 of Section 27, T2N, R12W, I.M., Comanche County, Oklahoma. Exhibits: None.

9. Consider adopting a resolution approving Amendment No. 1 to the D6 Urban Renewal Plan adding hotels and convention centers as permitted uses in the Commercial Central land use district. Exhibits: **Resolution No. 09-130**, Commercial Central language from the D6 Plan and Map of D6 Area.

10. Consider granting an extension of time for the performance bond for drainage improvements in Scissortail, Part 1. Exhibits: None.

11. Consider approving the construction plans for a waterline extension to serve Western Hills Christian Church located at 1401 NW 82<sup>nd</sup> Street. Exhibits: Location Map.

12. Consider approving the construction plans for a median opening and left turn bay on NW Cache Road to serve Cache Road Square Shopping Center. Exhibits: Location Map.

Wells stated he feels this is one of the most dangerous cuts that could be proposed. This will go across three lanes of traffic between 38<sup>th</sup> and 40<sup>th</sup> Street to get into Cache Road Square. He spends a lot of time in Cache Road Square and he has a hard time coming out of the center just because of all of the traffic going west. He stated he is sure that it falls within all of the perimeters, but it would be more logical to say that this does not need to be done. This is one of the busiest places on Cache Road.

MOVED by Wells, SECOND by Zarle, to disapprove the median opening and left turn bay on NW Cache Road.

Haywood clarified that the staff is recommending approval.

Richard Rogalski, Planning Director, stated he understands that there is a lot of traffic on Cache Road, but they did try to make this left turn as safe as they could. It is a one way only, no U-turn and they are rebuilding the transition to 38<sup>th</sup> Street. As left turn bays go, this is about as clean as you can make one.

Wells questioned if Rogalski was making the recommendation to approve because it falls within all of the parameters or because he really thinks it is a good idea to have that turn.

Mitchell stated staff is probably recommending approval because it meets all of the criteria. We try not to be subjective, it either complies with the rules or not. Staff feels it meets all of the conditions to warrant the turn lane. Whether Council approves it or not is a policy decision.

Shanklin stated staff is not recommending this by themselves, the developer has requested this.

Rogalski stated this is a developer funded improvement. The owners of Cache Road Square approached staff and requested a left turn bay at that location and staff looked into the request to see if it met the criteria. They tried to make it as safe as possible.

Zarle stated in the winter, you are lucky to get up the hill, let alone make that left turn.

Shoemate stated this is in his ward, and his only concern is during icy conditions where it slopes down towards 40<sup>th</sup> Street. He stated that road gets very slick. He questioned if there really was enough space between 38<sup>th</sup> & 40<sup>th</sup> for a left turn bay.

Rogalski stated there is 930 feet and this location is about midway.

Shoemate stated they argued about the turn bay at I-44 and the Comanche Nation Casino for a year.

Rogalski stated that was less than 200 feet. He stated in this case, this meets the City's criteria for a left turn bay. He stated there will never be a left turn, if someone is coming at you and you turn in front of them, that will be considered safe.

Shoemate stated most of those are on flat surfaces, not hills.

Rogalski stated there is sufficient site distance. It is a protected left turn on 38<sup>th</sup> Street. To put a left turn here, this is the right way to do it. The developer has agreed to put in all of the safety features that staff has required.

Shoemate stated he is concerned that we don't have long enough stretch on our left turn lanes on some roads. If this is approved he wants to make sure it will be long enough to be safe.

Rogalski stated it does meet the City's criteria. He stated the Planning and Traffic Engineering Divisions all looked at this.

Mayor Purcell stated the length of the turn lane is really not the issue, the issue is really crossing the three lanes of traffic going westbound on Cache Road. He stated it does not matter what signs you put up, there will be U-turns there. He stated they are asking for a disaster in that area and they will see accident after accident. Eventually they will want a traffic light to cut down on the accidents. They need to think really hard about this issue.

Burk stated this is Councilmember Shoemate's ward and he would like to know what he wants.

Shoemate stated he is scared of this and he has told the owners that he is scared of the situation.

VOTE ON MOTION: AYE: Burk, Zarle, Wells, Shoemate, Hanna, Drewry. NAY: None. ABSTAIN: Shanklin, Haywood. MOTION CARRIED.

13. Consider awarding a Professional Services Contract for Consultant Brokerage services concerning employee benefits to Higginbotham Insurance Agency, Inc, of Fort Worth, TX . Exhibits: Proposed Contract.

14. Consider extending the contract (CL09-034) Mowing & Littering Contract II , Areas: I , J & K to L.C. Lawn Care of Altus, Oklahoma. Exhibits: Department Recommendation, Proposal Price Sheet, Contract Extension Form.

15. Consider extending the contract (CL09-034) Mowing & Littering Contract II, Areas: E & D to Teen Challenge of Oklahoma of Cache, Oklahoma. Exhibits: Department Recommendation, Proposal Price Sheet, Contract Extension Form.

16. Consider approving appointments to boards and commissions. Exhibits: None.

#### **Board of Adjustment**

Neil Springborn CPC Member  
5431 NW Cottonwood Drive  
Lawton, Oklahoma 73505  
01/27/13

#### **Citizens' Advisory Committee On Capital Improvement Program (CIP)**

Lee Sanger Mayor's Appointment  
1616 W Gore Blvd.  
Lawton, Oklahoma 73501  
Unexpired Term 10/11/11

#### **City Planning Commission (CPC)**

Charlotte R. Perkins	Neil Springborn
2008 SW Monroe Avenue	5431 NW Cottonwood Drive
Lawton, Oklahoma 73501	Lawton, Oklahoma 73505
01/11/13	01/27/13

**Historical Preservation Commission**

Alvis Kennedy Public Representative  
510 NW 9<sup>th</sup> Street  
Lawton, Oklahoma 73507  
1/27/12

**Investment Committee**

Dr. Gilbert Gibson Pat Henry  
3607 NW Arlington Avenue 2601 NW Lake Ridge Drive  
Lawton Oklahoma 73505 Lawton, Oklahoma 73505  
01/27/13 01/27/13

**Lakes & Land Commission**

Stan Parson  
907 NW Cheryl Place  
Lawton, Oklahoma 73505  
01/23/13

**Parks & Recreation Commission**

DeWayne Burk Eric Sharum  
1335 NW Ash 3003 NE Stratford Circle  
Lawton, Oklahoma 73507 Lawton, Oklahoma 73507  
01/24/12 01/10/12

Jason Davis Mayor s Appointment  
236 SE Sungate Boulevard  
Lawton, Oklahoma 73501  
01/01/12

17. Consider approval of payroll for the period of November 30 December 13, 2009.

OLD BUSINESS

18. Hold public hearings and adopt a resolution declaring the accessory structure located at 411 SE Larrance Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public s health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove the dilapidated structure, if necessary. Exhibits: Resolution No 09-\_\_\_\_. Summary documents with supporting photos, reports from the Inspectors, and case history are available from Neighborhood Services.

Anthony Griffith, Neighborhood Services Supervisor, stated this item was brought before the City Council on April 14, 2009 and was postponed for six months. The titleholder asked for time to raise funds to remodel the building. He stated staff has reviewed the site and nothing has changed since April. Griffith presented photographs of the property. He stated the building is very difficult to secure.

PUBLIC HEARING OPENED.

Travis Warner, property owner, stated he has not been able to get any financing to get anything done. He stated they will try to auction the property on February 9<sup>th</sup>.

Drewry questioned what happens if the property does not sell at auction.

Mr. Warner stated the Council will just have to do what they need to do. They are just trying to recover what they have invested over the years.

Wells questioned if they would still be able to have the auction if the City Council declares the property dilapidated.

Burk stated they only have thirty days.

Jensen stated if the property owner does not pull a permit within thirty days, staff has the authority to commence with a civil suit, but staff will not be able to do that immediately. Even if they file the suit in January they will not have a hearing on the case until well after that. If they don t do anything tonight and they wait for the auction and someone else buys the property. That person will be back here asking for more time.

Drewry stated she appreciates that the Warners tried to do something with this building. She felt it was worth

saving.

Shoemate requested that Mr. Warner call him the next day because he does know someone that might be interested.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Drewry, to adopt **Resolution 09-131** declaring the accessory structure located at 411 SE Larrance Avenue to be a dilapidated public nuisance. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

NEW BUSINESS

19. Hold a public hearing and consider adopting a resolution amending the 2030 Land Use Plan from Agriculture to Residential/Low Density and Residential/High Density and an ordinance changing the zoning from Temporary A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) and R-4 (High Density Apartment District) zoning classification located approximately mile west of SW 52<sup>nd</sup> Street south of Bishop Road. Exhibits: Resolution No. 09-\_\_\_\_, Ordinance No. 09-\_\_\_\_ (per request), Ordinance No. 09-\_\_\_\_ (per CPC recommendation), Location Map, Site Plan, Applications and CPC Minutes.

Rogalski stated this property is located approximately mile west of SW 52<sup>nd</sup> Street, on the south side of Bishop Road. This request is for a total of 39.39 acres: Tract A-37.10 acres of R-1 and Tract B-2.29 acres of R-4. The proposed use for Tract A is a single-family residential subdivision, and the proposed use for Tract B is multi-family residential. The applicant is Shaz Investment Group, LLC. The zoning of the surrounding area is R-1 and R-4 to the north and Temporary A-1 to the south, east, and west. The land use of the surrounding area is single-family residential (Dove Creek Addition) and vacant to the north, and vacant to the south, east, and west. The 2030 Land Use Plan designates this area is Agriculture.

Tract A is proposed as a single-family residential subdivision to be developed in accordance with Chapter 21, Lawton City Code. It should be noted that Tract A is located approximately mile away from the trunk sewer serving this sewage basin. The applicant has submitted a study, which has been reviewed and accepted by Public Works, to allow a temporary sewage lift station to pump the sewer into the adjacent sewage basin through the existing sewer lines within the Dove Creek subdivision. The applicant will be required to construct all master planned sewer lines within the development, but these lines will terminate at the lift station rather than extend to the trunk sewer. In the future, when additional development has sufficiently extended the trunk sewer, the sewer lift station will be removed. The applicant does not have definitive plans for Tract B but has requested R-4 zoning for apartments. R-4 allows buildings up to 165 feet (15 stories) in height and a density of 1,000 square feet per unit for 23 or more units. R-3 (Multiple-Family Dwelling District) allows buildings up to 45 feet (3 stories) and a density of 2,000 square feet per unit for 4 or more units.

On November 5, 2009, the City Planning Commission held a public hearing on this request. During the public hearing no one spoke for or against the request. The CPC, by a vote of 8-0, recommended approval of the amendment to the 2030 Land Use Plan from Agriculture to Residential/Low Density and Residential/High Density and of the change of zoning from Temporary A-1 to R-1 on Tract A and changing the zoning from Temporary A-1 to R-3 (Multiple-Family Dwelling District) on Tract B. R-3 zoning would allow the proposed use of apartments but would limit building height and number of units, making it more compatible with the nearby single-family residential neighborhoods.

Mayor Purcell questioned who was going to maintain the lift station.

Rogalski stated the lift station would be constructed by the developer, but it would be part of the public sewer system and the public works department would have to maintain that lift station.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Mayor Purcell stated if this resolution and ordinance is passed tonight, that does not mean that this Council has automatically approved using the lift station in lieu of building a sewer line.

Rogalski stated it would not. Actually the construction plat would be the next step approved by the City Council.

Mayor Purcell stated they are still going to want to come back and try to get that lift station and that is what is going to have to be decided upon by the Council. They will have to be very careful if they agree to that.

Shanklin stated he read that some of this was existing sewer line, but it is not.

Rogalski stated there is existing sewer line in the area, but it does not feed that area. The existing drainage basin is about three quarters of a mile away. They are proposing to build the down stream section that would go to the west, but they are going to catch it in a pump station and pump it north into Dove Creek. That will be the permanent sewer until such time as the other sewer came in.

Shanklin questioned if this was going to be done by a local developer or someone out of town.

Burk stated the developer is from Oklahoma City.

MOVED by Haywood, SECOND by Drewry, to adopt **Resolution 09-132** amending the 2030 Land Use Plan from Agriculture to Residential/Low Density and Residential/High Density and **Ordinance 09-40** changing the zoning from Temporary A-1 to R-1 and R-3 zoning classification located approximately mile west of SW 52<sup>nd</sup> Street south of Bishop Road, waive the reading of the ordinance, read the title only. AYE: Zarle, Haywood, Wells, Shoemate, Drewry, Burk, Shanklin. NAY: Hanna. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 09-40

An ordinance changing the zoning classification from the existing classification of Temporary A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; changing the zoning classification from the existing classification of Temporary A-1 (General Agricultural District) to R-3 (Multiple-Family Dwelling District) zoning classification on the tract of land which is hereinafter more particularly described in section two (2) hereof; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

20. Hold public hearings and adopt a resolution declaring the structures located at: 1311 N.W. Cache Road, 1410 N.W. Smith Avenue, 1502 S.W. Tennessee Avenue, 1511 S.W. Texas Avenue, 1801 N.W. Cache Road and 2120 S.W. Monroe Avenue to be dilapidated, detrimental to the health, safety or welfare of the general public and community, a blighting influence and a public nuisance. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove the dilapidated structure, if necessary. Exhibits: Six Resolutions. Summary documents with supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

Mayor Purcell stated they have been asked to address 1511 SW Texas Avenue first.

1511 S.W. Texas Avenue

Griffith presented photographs of the property. He distributed a copy of the inspection checklist (Exhibit A, which was distributed). He stated the structure has had no utilities since December 2006.

PUBLIC HEARING OPENED.

Bobby Finley, 4628 SW J Avenue, stated he plans to remodel the property. He plans to have the property ready for his daughter by the summer.

Haywood stated he has received many complaints on this property and something needs to be done.

Mayor Purcell explained that Mr. Finley has thirty days to obtain a remodel permit then he must be making some progress on remodeling the property.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Drewry, to adopt **Resolution 09-133** declaring the structure located at 1511 S.W. Texas Avenue to be a dilapidated public nuisance. AYE: Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

1311 N.W. Cache Road

Griffith presented photographs of the property. He distributed a copy of the inspection checklist (Exhibit A, which was distributed). He stated the structure has had no utilities since June, 1994.

PUBLIC HEARING OPENED.

Larry Castle, attorney for the title holders, Bob & Delores Mansell, stated the photos are misleading. They are requesting time for Mr. Mansell to rehabilitate this building. He believes he can get started in the next thirty days.

Hanna questioned how much time Mr. Mansell is requesting.

Mr. Castle stated Mr. Mansell feels he can get started in the next thirty days and be completed in six months.

Hanna stated he has to meet city code.

Burk stated that Mr. Mansell has had plenty of time to fix up these buildings. He stated everyone works very hard to make Lawton a better place to live and Mr. Mansell does not do his part. These should have been torn down years ago and it is out of control. Mr. Mansell constantly tells the Council he will do something and he never does.

Mr. Castle stated that Mr. Mansell is willing to do something about this.

Burk stated that those that are trying to make this a better place to live are tired of this.

Jensen stated that Mr. Castle is asking for time, but time is built into this process. If he is making satisfactory progress, staff can give him extensions.

Tom Strickland, 1624 NW 36<sup>th</sup> Street, stated he has been approached by Mr. Mansell about buying the building and they are currently negotiating on a price. If the Council does not grant Mr. Mansell some additional time, he will cancel any interest he has in putting in a nice building. He stated he has been in this building and there is a lot of things that need to be done and he is sincerely interested in this building and he feels there is a good chance they can negotiate a sale. He does not feel that at this point another 60 or 90 days will make much difference.

Hanna questioned how long it would take to make a deal with Mr. Mansell on this building.

Mr. Strickland stated the previous building he bought took about ten days to negotiate a deal.

Hanna questions how long it would take to repair the building.

Mr. Strickland stated he could get it into a safe and secure condition in thirty days.

Griffith stated that if Mr. Strickland purchased the building in that thirty days he could obtain a permit. The thirty days starts when he obtains that permit and if he shows progress, staff has the authority to grant a thirty day extension.

Mr. Strickland requested 45 days.

Shoemate stated he has known Mr. Strickland for many years and he is a man of his word.

Mayor Purcell stated this has happened many times and the minute they extend the time, nothing happens and then staff has to start the process over and bring it back to the Council. He does not know if the Council can extend those 30 days to 45 days to pull a permit to either remodel or demolish.

Mr. Strickland the rest of the month is worthless as far as getting quotes from contractors. He does not see why they cannot give him 45 days, that will give him a chance.

Jensen stated they will get that request over and over. He stated staff has so many cases and they are not going to get anything done in 15 days.

PUBLIC HEARING CLOSED.

MOVED by Hanna, SECOND by Shoemate, to adopt **Resolution 09-134** declaring the structure located at 1311 N.W. Cache Road to be a dilapidated public nuisance. AYE: Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

1410 N.W. Smith Avenue

Griffith presented photographs of the property. He stated the code violations are listed on Exhibit A which was distributed. The structure has had no utilities since August 2007.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Hanna, SECOND by Burk, to adopt **Resolution 09-135** declaring the structure located at 1410 NW Smith Avenue to be a dilapidated public nuisance. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

1502 S.W. Tennessee Avenue

Griffith presented photographs of the property. He stated the code violations are listed on Exhibit A which was distributed. He stated the structure has had no utilities since November 2006.

PUBLIC HEARING OPENED.

Pamela Jefferson, 719 SW Ranch Oak Boulevard, stated she owns the property and she is requesting time to fix up the property and sell it.

Haywood stated he has been in contact with Mr. Jefferson and confirmed they are planning on fixing up the property.

MOVED by Haywood, SECOND by Zarle, to adopt **Resolution 09-136** declaring the structure located at 1502 SW Tennessee Avenue to be a dilapidated public nuisance. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

1801 N.W. Cache Road

Griffith presented photographs of the property. He stated the code violations are listed on Exhibit A which was distributed. He stated the structure has had no utilities since February 2001. He stated there was a fire in the building sometime between 1990 and 1993 and evidence of the fire is still present. He stated there is evidence of water leakage and the build up of mold and mildew on the walls and floor.

Wells questioned if this property had been previously brought before the Council.

Griffith stated this property came to the Council in 2004. The Council did not take any action at that time.

PUBLIC HEARING OPENED.

Larry Castle, attorney for the title holders, Bob & Delores Mansell, requested additional time for this property. He stated Mr. Mansell will get started on the property as quickly as the weather permits. He intends to get a permit as quickly as he can.

Drewry stated when this property came up before, the Council gave him nine months and there has been no progress.

Tom Strickland, 1624 NW 36<sup>th</sup> Street, stated he did take a look at the building and it is in far better shape than what it shows in the pictures. The building as a whole is not in bad shape.

Trent Dockstetter, 1805 NW Cache Road, stated he has owned the building next door for sixteen years. He has to pay for pest control every month and they have had rodent infestation over the years. It is very embarrassing to have his customers park in front of this building. This property obviously affects his property value. He would buy this property for the appraised value. He stated he has just had enough.

MOVED by Hanna, SECOND by Shoemate, to adopt **Resolution 09-137** declaring the structure located at 1801 NW Cache Road to be a dilapidated public nuisance. AYE: Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

2120 S.W. Monroe Avenue

Griffith presented photographs of the property. He stated the code violations are listed on Exhibit A which was distributed. He stated the structure has had no utilities since May 2002. He stated the structure has been boarded up for several years.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Burk, to adopt **Resolution 09-138** declaring the structure located at 2120 SW Monroe Avenue to be a dilapidated public nuisance. AYE: Shoemate, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. ABSENT: Wells, Hanna. MOTION CARRIED.

21. Receive the semi-annual update of the hotel/motel tax funded activities for FY 2009-2010 from the Northside Chamber of Commerce. Exhibits: None.

Nicole Bailey, Director of Northside Chamber of Commerce, summarized a report that was distributed to the



Council along with the agenda books. She stated the report covers the period from July 1<sup>st</sup> to November 20<sup>th</sup>. She stated that the Northside Chamber of Commerce does not only assist minority individuals nor do they only take minority members. She stated they assist those small businesses that may not have the knowledge to go to the banks and put together a business plan or certification package.

22. Receive the semi-annual update of the hotel/motel tax funded activities for FY 2009-2010 from the Lawton Fort Sill Chamber of Commerce. Exhibits: None.

Dana Davis, President of Lawton Fort Sill Chamber of Commerce distributed and summarized their semi-annual report. He stated their trip to Washington, D.C. is scheduled for April 21-23, 2010. Their legislative reception in Oklahoma City is scheduled for March 2 at the Oklahoma City History Center and the kick off legislative luncheon is scheduled for February 28<sup>th</sup>.

23. Consider adopting a resolution relating to indebtedness of the Lawton Economic Development Authority in the increased amount of not to exceed \$12,000,000 in aggregate amount outstanding at any one time for the purpose of financing the acquisition of land and other redevelopment activities for Phase IA-Project and other downtown TIF District projects (the Note); waiving competitive bidding; approving an Agreement of Support between the City and LEDA; approving a Pledge Agreement from LURA relating to the proceeds of the sale of land acquired with the proceeds of the Note and other documents necessary to close the revised loan. Exhibits: Resolution No. 09-\_\_\_\_, Revised Note, Revised LURA Pledge Agreement/Mortgage and Security Agreement, Revised City Agreement of Support, Draft Term Sheet, LEDA, December 1, 2009, LEDA Requisition #38 November 5, 2009, Current LURA Project Map, LEDA Benchmark letter September 18, 2009, LEDA Benchmark letter November 5, 2009, Ruhl & Ruhl Press Release July 8, 2008 and Downtown Economic Development Project Plan & Budget.

Mitchell distributed an updated term sheet. He stated the terms and conditions of the note were approved by the Lawton Economic Development Authority (LEDA) yesterday and was ratified by the Lawton Urban Renewal Authority (LURA) this afternoon. He stated the original loan was for \$9.5 million and they are asking to increase that line of credit to \$12 million. The new maturity date would be December 31, 2010. The interest rate changes to a minimum rate of 5%. The fees were paid at the time that they extended the existing loan. Under collateral there are two new changes. The first is a requirement for a first mortgage security interest on all property acquired through the downtown redevelopment program for phase IA or any other lands that were acquired through the proceeds of the loan. The second change is the lenders are asking that both LEDA and LURA not incur any additional debt other than what is already been established with an exception that if LEDA or LURA has an opportunity to participate in a grant or loan program at the state or federal level, they will be able to participate as long as they provide advance notice to the lenders and that they provide written consent to participate. He stated they are requesting the Council pass the resolution necessary to allow them to move forward with the project.

Hanna stated that at a previous meeting, Council member Shanklin asked the City Attorney if the City of Lawton would be responsible for any of the debt incurred with this project.

Jensen stated the agreement of support approved by the City Council in 2007 was listed as collateral then and the banks want that same agreement of support listed as collateral now. He stated the City of Lawton has no legal liability for the note. He stated the agreement of support in the packet is a proposed revision to delete the highlighted paragraphs A through D on page 2. The banks want the support agreement to remain the same.

Paragraph A says if the City agrees that if the principal of and interest on the note are not paid, the City will transfer, from any legally available funds, amounts sufficient to pay the principal of and interest on the note.

Paragraph B says that as an alternative, the City agrees to cause the issuance of TIF Bonds. Paragraph C is the reason the City of Lawton cannot be legally liable for this note. In 2007 the City of Lawton did offer paragraph A and B as an expression of support and the banks can then come to the Council and ask that the paragraphs A or B be honored. The Council has the discretion to decide if they would honor paragraph A, B or nothing. He believes that everyone here, including the banks, agree that there is no legal obligation on the note. He stated Gary Bush, the bond counsel for the City of Lawton, drafted this agreement of support in 2007 and the documents presented tonight. He has had numerous discussions with Mr. Bush and his interpretation is that the City Council can fulfill whatever the expectation is under this agreement of support just by honoring paragraph B. Paragraph B is saying that with that money in place or to be secured in the future, we could issue long term TIF bonds to pay off the debt owed to the banks and essentially refinance this obligation not with general fund money, but just from TIF proceeds. If they agree to keep paragraph A in this agreement, they are saying they will consider transferring funds from any legally available source.

Shanklin questioned if the citizens of Lawton, Oklahoma will be responsible.

Jensen stated the citizens are not legally obligated to pay this note, but if the Council wants to offer up this agreement of support again, then the City Council will need to decide if they want to honor paragraphs A and B. If LEDA is having trouble paying off this note, the banks will come and ask the City Council for assistance. That is

what was agreed to in 2007 and that is what the banks want the Council to agree to tonight.

Hanna requested Jensen address paragraph D.

Jensen stated he and Gary Bush agreed that the intent of this language is to say that if there is a year in which LEDA will have difficulty paying the principal and or interest, and the banks come and ask for City support, then we would have to, as part of the budget, figure out where that money will come from. The Council will have that option.

Wells questioned if the rent money currently goes to the banks.

Mitchell stated the month to month rental leases are paid to LURA. Part of the original note required those rent revenues would be transferred over to LEDA. For the year 2009 they have collected approximately \$100,000 and 90% of that money has been transferred over to the authority and that money has been used to pay interest on the note.

Jensen stated that was not reflected in any of the documents that the City is considering tonight.

Wells stated they are talking about approving this as a no bid resolution. It seems like the interest rate of 5% is higher than what it should be based on the going interest rate in the world market.

Mitchell stated this is what was quoted by the three local banks as an adjustment from the original note. He does not know how that rate was determined.

Jensen stated the waiving of competitive bidding is expressly authorized but it has to be by a vote of the Council. The reason to do this in this case is because we already have a \$9.5 million note that we are replacing with a \$12 million note. We have to have six votes tonight if they are going to approve this. He stated as far as the mortgage, they are certainly entitled to a mortgage to secure a loan like this. Right now we have a shell document as far as a mortgage because all of the details have not been worked out by a title company or title attorneys. Tonight the Council is approving a mortgage or authorizing one by LURA only to the extent that it is a shell document right now and doing this in principal.

Shanklin stated that everything they approve tonight is not permanent.

Jensen stated everything is permanent except that the mortgage document has not been finalized because they didn't have time to get all of the legal descriptions ready and they will have to deal with issues on the current streets and right of way which is still being held in trust for use by the public. They will also have to deal with the issue of releases on those mortgages so they can start paying back this note.

Mitchell stated he feels the mortgage security actually improves our position. The mortgage will give us an improved financial position in that the banks would take the land as the first piece of repaying the note. The risk is actually lower.

Fred Fitch, Chairman of Lawton Economic Development Authority, stated there is a commitment from three lending institutions, BancFirst, IBC Bank and Arvest Bank, and from the City Council, LEDA and LURA to make this project happen. This is a tremendous partnership along with the developer, Ruhl & Ruhl. He stated this note is due on December 31<sup>st</sup> and they do not want this note to become delinquent. They need to agree to a new note of \$12 million so they can finish all of the acquisition and the demolition and the moving of occupants in that tract area. He stated the 5% is a lot of money, but they have been paying 1.65% to 1.78% interest on this note for the past two years, which is bad for the banks. He has no problem with offering this property as collateral and there are a lot of details to be worked out. He stated there is an agreement tonight and they are requesting Council approval so they can go on and complete this project. They hope to close on the first tract in March 2010. They purposely set it up in three different tracts because they did not want to get a development going in tract one and yet already committed land in tracts two and three. There are benchmarks that the developer is having to meet and they have met every benchmark successfully. He stated they will not transfer this land to this developer without these benchmarks being met. When these benchmarks are met and in a timely manner they will have all of the confidence in this developer that they need to proceed to transfer that land in March. If the developer does not come through, there would be developers chomping at the bit to develop this property because it is under one ownership. What Ruhl and Ruhl will pay to develop this property will be almost flush with what LEDA has in it.

Shanklin questioned what Ruhl and Ruhl will pay.

Mr. Fitch stated they will pay \$4.32 a foot. He stated with all of this property under one ownership, it is probably worth \$8 - \$9 a foot. If they lost Ruhl and Ruhl, they would have property that would be of much more value. They would also have a lot of people wanting to be a part of this. They are committed to Ruhl and Ruhl at this point.

Shanklin stated he had read that this is Ruhl and Ruhl's first project.

Mr. Fitch stated this is not their first project, but this will be their largest project. He stated they have projects in Iowa, Missouri, Kansas City. He stated they are making progress and with the economy the way it is, they are very much on track. He stated this will help increase the tax base in the community and it will build revenue for our city and our schools and they have got to move forward.

Wells stated we have borrowed millions through the OWRB for years and we are getting it for 3.4%. He feels 5% for one year is a very high rate.

Burk stated he feels the banks have stepped up to the plate for the first \$9.5 million. He stated they are local banks and they are committed to the growth of this city and we need to be committed to them. He stated the \$2.5 million is needed to get this project where it needs to be and he feels they should show this support.

Dan Bachelor, Center for Economic Development Law, 301 N. Harvey Avenue, Oklahoma City, stated they serve as the development counsel for this project. He stated LEDA, LURA and the City Council is undertaking a major project to add new value to this community. In order for this to occur, all of the public bodies involved in the chain of action need to take the appropriate actions at the appropriate times. What the bankers are loaning against here is the confidence they have that the various bodies and the public officials will do the right things at the right time in order to create this wonderful investment. They are taking a level of risk that they would not normally take with other ordinary municipal or utility debt. He stated there is a great quality of value to be created here and the principal sources of value that you look to repay the debt are the land proceeds and the ad valorem and sales tax increment revenues that will be generated by the development. This area, fully developed, has a capitalized or finactable value of approximately \$40 million, which is many times the amount of the debt. He stated the community of Lawton is weathering these rough seas of economic distress. The long term prospects for the growth of business and investment in this community are good and that makes this project a reasonable public risk. This step is one of a number of significant steps that will be taken in this process and his firm believes this project is a wonderful prospect and this agreement is a reasonable request and they would recommend approval.

Doug Meier, President of BancFirst, stated they were the lead bank that put together the \$9.5 million line of credit.

He stated in the RFP that was sent out in January 2007, it mentioned as part of the credit facility a moral obligation of the City of Lawton. That language meant a lot to his bank as well as the other banks in the group. He stated it also meant a lot to the loan committees that reviewed this request. Because the City of Lawton was behind this project was the primary reason they decided to work on this project. They have always recognized that it is not a legal obligation, but it is a moral obligation and it is what the City said it would do to support this project.

They feel it is important and it indicates to the banks that the community continues to support this project. With regards to the interest rate, they tried to be as competitive as they could. They used an index used for these types of projects and they have had to take a different approach as to how they price these types of commercial loans.

These are the types of terms that are being proposed in today's market. He stated if the community prospers, so will the banks. He stated this is now an asset that no other community in this country will have, coming out of this recession, which is 54 acres of developable ground, near a downtown, in a viable strong community that is ready to be developed.

Haywood thanked all of the banks for stepping up to the plate.

Jensen stated the maturity date will be December 31, 2010.

MOVED by Burk, SECOND by Zarle, to approve **Resolution 09-139** approving the issuance by the Lawton Economic Development Authority of a 2009 Economic Development Capital Improvement Note in the amount of not to exceed \$12,000,000 in aggregate amount outstanding at any one time for the purpose of replacing the existing similar line of credit note issued in 2007; establishing a later maturity date and providing additional funds for the redevelopment activities for Phase IA-Project and other downtown TIF District projects (the Note); waiving competitive bidding; approving an Agreement of Support with the Authority; approving a Mortgage and Security Agreement and a Pledge Agreement from LURA relating to the proceeds of the sale of land acquired with the proceeds of the existing Note or the new Note and other matters relating thereto. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. ABSTAIN: Wells. MOTION CARRIED.

The Mayor and Council recessed at 8:30 p.m. and reconvened in regular, open session at 8:40 p.m. Roll call reflected all members present.

24. Consider adopting a resolution, amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, establishing fees for structural improvement and maintenance of space adjacent to dock units at Lake Lawtonka and Lake Ellsworth, providing an effective date of January 1, 2010. Exhibits: Proposed Resolution 09 - \_\_\_ and Boathouse units with existing approved structures.

Kim Shahan, Parks and Recreation Director, stated on November 3<sup>rd</sup> he brought a request to the City Council to

establish a procedure for structural improvements and maintenance on space that is adjacent to dock units at the two lakes. He stated the City Council approved the action for the structural improvement and maintenance plan, but they gave direction to take that information back to the Lake and Lands Commission for them to establish a recommended fee structure for the use of the property adjacent to the boathouses.

Drewry stated she has had a lot of calls from boathouse owners and from others who were concerned. She suggested a committee be formed with two representatives from the Lake and Lands Commission, two representatives from boathouse owners, Kim Shahan, Bryan Long, Jay Burk, Bill Shoemate and herself to work out something that will be fair to everyone.

MOVED by Drewry, SECOND by Hanna, to table this item and appoint a committee to work out details. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: Wells. ABSTAIN: Haywood. MOTION CARRIED.

25. An ordinance pertaining to stormwater detention amending Sections 19A-1-2-121 through 19A-1-2-123 and creating Section 19A-1-2-126, Division 19A-1-2, Article 19A-1, Chapter 19A, Lawton City Code, 2005, establishing minimum post-construction stormwater management requirements and controls in compliance with the National Pollution Discharge Elimination System Permit and state and federal regulations, providing for severability, codification, and establishing an effective date. Exhibits: Ordinance No. 09-\_\_\_\_\_.

Ihler stated On February 8, 2005, the Oklahoma Department of Environmental Quality (ODEQ) issued a general permit for the discharge of stormwater from Phase II Small Municipal Separate Storm Sewer Systems. The City of Lawton was issued an Authorization to Discharge in accordance with this permit on January 26, 2006. In order to gain this required permit coverage, a stormwater management plan was created that included the six minimum control measures specified by ODEQ and EPA. One of these six minimum control measures requires that the City of Lawton adopt an ordinance by February 7, 2010 to regulate post-construction runoff from new development and redevelopment projects. To satisfy this requirement, language to reduce the quantity of pollutants that are discharged into the storm sewer system from areas undergoing development or redevelopment is being included in the existing stormwater regulations in Chapter 19A of the Lawton City Code. Meetings were held with a twelve-member Developer Stakeholder Group to discuss this ordinance on 10/23/07, 11/20/07, 11/25/08 and 12/18/08 and the final version of the ordinance was mailed to the group for review on November 10, 2009. No comments for revisions have been received to date. The regulations contained in the proposed ordinance are the minimum necessary to meet the permit requirements set forth by ODEQ and will only affect development or redevelopment projects on parcels one (1) acre or larger that construct 20,000 square feet or more of impervious cover.

He stated on page seven of the ordinance, section 19A-1-2-126, B. 7 & 8, there is a scrivener's error, it states March 1, 2009 and it should state March 1, 2010.

MOVED by Shanklin, SECOND by Burk, to adopt amended **Ordinance 09-41**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 09-41

An ordinance pertaining to stormwater detention amending Sections 19A-1-2-121 through 19A-1-2-123 and creating Section 19A-1-2-126, Division 19A-1-2, Article 19A-1, Chapter 19A, Lawton City Code, 2005, by establishing minimum post-construction stormwater management requirements and controls in compliance with the national pollution discharge elimination system permit and state and federal regulations, providing for severability, codification, and establishing an effective date.

26. Consider awarding (RFPCL10-022) 100 Aerial Platform Fire Apparatus (Quint) to Sutphen Corporation of Addison, Texas. Exhibits: Department recommendation, proposal price bid sheet, exhibit.

Bart Hadley, Fire Chief, stated they went out for bid for the aerial truck approved in the budget. They have \$500,000 in this year's budget towards this purchase with the hope that the balance would be funded in the budget for next year. He stated financial services was prepared to enter into a lease agreement, but they feel that there is an opportunity with the money that is here and with the expected delivery date of the truck, that they could put some money down, get a discount, and by the time it is delivered we will be into next budget year. If the money is appropriated at that time they would be able to purchase it outright and not enter into a lease purchase. If the money was not allocated they would have to enter into a lease purchase. He stated there were two vendors who bid on this particular apparatus. This gave the vendors the opportunity to propose their truck and the things that are specific to that manufacturer. He stated the bids did come in where they expected which was approximately \$1 million. The bid price for the truck itself is \$950,516 from Sutphen Corporation for the 100 aerial truck. Another 100 aerial truck was also bid, and their bid price was \$927,983, however that truck will not fit into the station, so as part of their bid process they have offered to modify the station. That would add an additional \$16,000. He

stated they left out numerous items that were included in the guidelines. Once they started comparing the cost difference of the two trucks, the second truck comes out to be more expensive than the truck from Sutphen. He stated there were also some advantages to the Sutphen mid mount truck as opposed to the 100 aerial which is rear mount. He stated the Lawton Fire Department has had mid mount trucks for 25 years.

Shanklin questioned where the new truck will be placed.

Hadley stated it will be at central fire station.

MOVED by Shanklin, SECOND by Zarle, to award (RFPCL10-022) 100 Aerial Platform Fire Apparatus (Quint) to Sutphen Corporation of Addison, Texas. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shoemate reported that the old southwestern hospital is clear of asbestos and lead based paint. He stated the Fort Sill Indian School will be renovated. These two properties will be cleaned up and improved.

Drewry stated she is proud of the City Council for taking care of all of these dilapidated properties which were on the agenda tonight.

Shanklin stated dilapidated properties are everywhere and they just need to keep coming to Council. He is all for getting rid of these eye sores.

Haywood stated they all try to keep their neighborhoods clean. He asked his constituents to please keep their papers picked up in front of their homes.

Wells stated most people are not aware that the local papers make you pay to put an obituary in the paper. He stated families take a great deal of pride in putting the information in the last statement about their loved one who has passed away and sometimes the editor takes the liberty to cut some of the obituary out because they think it is too long. This really hurts families who do not have the last tributes to their loved ones. He knows that the City Council does not have any control over this but he would hope that the newspaper would be a little more sensitive.

Chief Hadley stated that he failed to discuss the options that were bid separately. He stated these were not in the agenda items commentary. He questioned if this was included in the item that was passed.

Jensen stated he understood the motion to be what was recommended.

Mayor Purcell questioned if the whole amount was \$951,000.

Chief Hadley stated it is \$991,736.10 for the recommendation. This includes eight of the ten options. These were bid separately.

MOVED by Shanklin, SECOND by Hanna, to reconsider item #26. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

Chief Hadley stated there is \$56,266.56 in options that he is recommending. He stated they have provided a discount option that if we put down \$470,676.50 we will receive a discount of \$15,046.46 which would make the total cost \$991,736.10.

MOVED by Shanklin, SECOND by Zarle, to award (RFPCL10-022) 100 Aerial Platform Fire Apparatus (Quint) to Sutphen Corporation of Addison, Texas in the amount of \$991,736.10. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED.

Mitchell requested a special workshop starting at 5:00 p.m. on January 26<sup>th</sup>, which is an hour before the regular scheduled council meeting. The subject matter will be to discuss the old Lawton High School. He has been working on something that he would like to discuss with the council regarding how to fund the balance of the work that needs to be done.

The Mayor and Council convened in executive session at 9:08 p.m. and reconvened in regular, open session at 9:39 p.m. Roll call reflected all members present.

#### ADJOURNMENT

27. Pursuant to Section 307C10, Title 25, Oklahoma Statutes, consider convening in executive session to discuss an economic development prospect to be located within the City of Lawton, and if necessary, take appropriate

/s/ Traci L. Hushbeck  
TRACI HUSHBECK, CITY CLERK